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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,434	02/18/2004	Kenichi Inoue	7217/71727	6713

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EXAMINER	
KOCA, HUSEYIN	
ART UNIT	PAPER NUMBER
3744	
MAIL DATE	DELIVERY MODE
10/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/782,434	INOUE ET AL.	
	Examiner	Art Unit	
	Huseyin Koca	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 August 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3-6 and 8-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *3 and 8* is/are allowed.

6)☒ Claim(s) *1,4-6 and 9-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/26/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 4, 6, 9, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 2002/0126431) in view of DeWolf et al. (5,279,458), and further in view of Masayoshi (JP 2003-029850).

In regard to claims 1, 4, 6, 9, 11, and 12, Yanagisawa teaches a fan control apparatus (122 and 120) capable of cooling an inside of an equipment body; a temperature detecting means (138 and 140) for detecting a temperature in a computer (paragraph 0052, lines 2-3), a temperature control means for controlling the cooling fan according to a temperature value detected by the temperature detecting means (paragraphs 0055). Yanagisawa does not explicitly teach communicating over a network, causing a cooling fan to operate in a low state or in a high state, and causing a

cooling fan to operate after a predefined duration time has elapsed. DeWolf et al. teach communication over a network and causing a cooling fan to operate in a low state or in a high state (Fig. 1; Fig. 2; C-2, L-40-68; C-3, L-1-49; C-4, L-1-5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yanagisawa system so that it can be communicated over a network as taught by DeWolf et al. in order to advantageously remotely control the fan to operate the fan more efficiently from a different location which gives user the option of remote control. Yanagisawa in view of DeWolf et al. do not explicitly teach causing a cooling fan to operate after a predefined duration time has elapsed. Masayoshi teaches causing a cooling fan to operate after a predefined duration time (t2) has elapsed (Abstract). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Yanagisawa in view of DeWolf et al. so that the cooling fan starts to operate after a predefined duration time has elapsed in order to advantageously control the cooling fan more efficiently and keep the temperature of the object that is being cooled within its temperature limits.

4. Claims 5 and 10 are is rejected under 35 U.S.C. 103(a) as being unpatentable over Yanagisawa (US 2002/0126431) in view of DeWolf et al. (5,279,458) and Masayoshi (JP 2003-029850) as applied to claim 1 above, and further in view of Frankel et al. (US 2003/0234625).

In regard to claims 5 and 10, With regard to claim 5, Yanagisawa in view of DeWolf et al. and Masayoshi teach most of the limitations of the claim but fail to explicitly teach the cooling fan has a rotational frequency such that its rotational

frequency rises in a ramp shape. Frankel et al. teach a cooling fan 100 with a speed sensor 116 that is capable of operating at constant speed (paragraph 0028). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Yanagisawa in view of DeWolf et al. and Masayoshi with Frankel et al. to advantageously ensure power consumption levels remain constant with increases in voltage levels applied to the cooling fan without the cost and complexity of a voltage regulating power supply (paragraph 0028) in view of the teachings of Frankel et al. Furthermore a cooling fan whose rotational frequency increases at a constant velocity ensures there is no sudden increase or decrease in the speed of the fan and thus keeps the fan from being excessively noisy while in operation.

Allowable Subject Matter

5. Claims 3 and 8 are allowed.

Double Patenting

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1, 4-6, and 9-12 provisionally rejected on the ground of nonstatutory double patenting over claims 1, 2, 4-7, 9, and 10 of copending Application No. 10784439. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: "cooling fan is performed by using the temperature control means and time control means"

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Response to Arguments

8. Applicant's arguments with respect to claims 1, 4-6, and 9-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huseyin Koca whose telephone number is (571) 272-3048. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/HK/

CHERYL TYLER
SUPERVISORY PATENT EXAMINER